REMARKS/ARGUMENTS

The Office Action mailed January 13, 2005 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

In the specification, paragraphs [00014] and [00030] have been amended to correct minor editorial matters. No new matter has been added.

Claim 1 has been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found in the specification, pages 10-11, [0022], [0023], and [0024]. The text of claim 2 is unchanged, but their meaning is changed because they depend from amended claims. No new matter has been added.

Claim 3 has been canceled, without prejudice or disclaimer of the subject matter contained therein.

New claims 5-9 also particularly point out and distinctly claim subject matter regarded as the invention. Support for these claims may be found in the specification, page 7, [0016] and page 10, [0022]. No new matter has been added.

Priority

Applicant thanks the Examiner for the acknowledgment of Applicant's claim for foreign priority based on an application filed in Czechoslovakia on 12/4/2000. Attached please find a certified copy of the application as required by 35 U.S.C. §119(b).

Oath/Declaration

The oath was found improper because the date given for the foreign application was incorrect. Attached please find a newly executed Oath with the proper date of 12/4/2000.

<u>35 U.S.C. § 102 Rejection</u>

Claims 1-3 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by

<u>Datari</u> (US 6,418,169) This rejection is respectfully traversed. Claim 1 is an independent claim.

According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (e)

only if each and every element as set forth in the claim is found, either expressly or inherently

described, in a single prior art reference.[1]

The Office Action states that:

"Datari discloses a method for providing a data stream to a client from a source
including, providing access to a system to the client (Summary),
            said system based on the distribution of data streams on demand (Fig. 1);
            verifying the identity of the client (Fig. 7)
            supplying the client with a data stream from the source, said data stream
based on a demand of the client (Fig. 1); and
            setting up a secured channel at the same time as said supplying, said
secured channel reserved for optional feedback from the client (col. 2, lines 15-
30)."

Applicant respectfully disagrees for the reasons, among others, stated below.

Claim 1 has been amended to include "passing the request for the data stream from the

operator server to a central server" and "supplying the client with a data stream from the source,

the data stream optimized by a choice of path." As stated in the specification, the "data stream

distribution process is optimized by choice of path and/or time and/or data stream distribution

mode." (Specification, page 7, [00016]). Furthermore, the system provides for the "possibility

to switch quickly over to another standard on a mass scale for utilization of on-demand data

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[1] Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

streams providing patented systems, thanks to a central system administration." (Specification, page 13, [0029]). Thus, the claimed invention provides for the intelligent routing of data through a central server that optimizes the data stream distribution process through a choice of path.

Datari does not teach "passing the request for the data stream from the operator server to a central server" as claimed in amended Claim 1. Rather, Datari merely teaches the use of a "scheduler 620 [to] receive input data" in a set-top box system (Col. 8, lines 23-24). The input data is not passed to a central server as provided for in amended Claim 1.

Additionally, Datari does not teach or suggest "supplying the client with a data stream from the source, the data stream optimized by a choice of path" as claimed in amended Claim 1. Datari teaches a decoder system which "identifies and compares the attributes of the received packetized data with attributes in a **predetermined** hierarchical priority profile for associating individual attributes with a desired data output priority." (Abstract, emphasis added). Thus, Datari merely teaches the use of a predetermined hierarchical priority profile to determine the desired output priority and does not teach or suggest "supplying the client with a data stream from the source, the data stream optimized by a choice of path" as claimed in amended Claim 1.

Accordingly, since each and every element as set forth in Claim 1 is not found in Datari, it is respectfully requested that this rejection be withdrawn.

Dependent Claim

As to dependent claims 2 and 5-9, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.
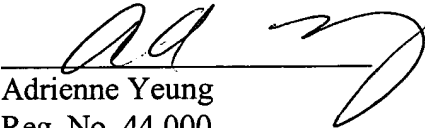
Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

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Dated: 5/13/05

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